

(ii) Advise the requester that a search for responsive records will not be initiated until the requester indicates a willingness to pay assessable costs for the category determined by the naval activity.

(2) Requesters must submit a fee declaration appropriate for these categories:

(i) Commercial requesters must indicate a willingness to pay all search, review, and duplication costs.

(ii) *Educational or non-commercial scientific institution or news media representatives. Requesters must indicate a willingness to pay duplication charges in excess of 100 pages, if more than 100 pages of records are desired.*

(iii) *All others.* Requesters must indicate a willingness to pay assessable search and duplication costs if more than 2 hours of search effort or 100 pages of records are desired and the resultant fees will exceed the \$15 fee waiver threshold.

(3) If the above conditions are not met, then the request need not be processed and the requester shall be so informed within 10 working days.

(4) As described above, naval activities must be prepared to provide an estimate of assessable fees to the requester. While searches vary among naval activities and an estimate is often difficult prior to an actual search, requesters desiring estimates are entitled to them before committing to a willingness to pay. Should naval activity costs exceed the amount of the estimate or the amount agreed to by the requester, the amount in excess of the estimate or the amount agreed to shall not be charged without the requester's agreement.

(5) A naval activity may not require advance payment of any fee (i.e., payment before work is commenced or continued on a request) unless the requester previously failed to timely pay fees or the agency determined that the fee exceeds \$250. A timely fashion is 30 calendar days from the date of billing by the naval activity.

(6) Where a naval activity estimates or determines that allowable charges that a requester may be required to pay are likely to exceed \$250, the naval activity should notify the requester of the likely cost and obtain satisfactory

assurance of full payment where the requester has a history of prompt payments, or require an advance payment of an amount up to the full estimated charges for requesters without a history of payment.

(7) Where a requester has previously failed to pay a fee charged in a timely fashion (i.e., within 30 calendar days from the date of the billing), the naval activity may require the requester to pay the full amount owed, plus any applicable interest, or demonstrate that the fee had been paid, and to make an advance payment of the full amount of the estimated fee before the naval activity begins to process a new or pending request. Interest will be at the rate prescribed in 31 U.S.C. 3717 and confirmed with respective accounting and finance offices.

(8) After all work is completed on a request and the documents are ready for release, naval activities may request payment prior to forwarding the documents if there is no payment history on the requester or if the requester has previously failed to pay a fee in a timely fashion (i.e., within 30 calendar days of the billing). If the requester fails to pay in a timely fashion, paragraph (b)(7) of § 701.45 applies. Naval activities may not hold documents ready for release pending payment from requesters with a history of prompt payment.

(9) When naval activities act under § 701.45 number (b)(1) through (7), FOIA time limits (10 working days from receipt of initial requests and 20 working days from receipt of appeals, plus permissible extensions of time) begin after the naval activity has received a willingness to pay fees or fee payments, if appropriate.

(10) Naval activities may charge for time spent in searching for records, even if that search fails to locate records responsive to the request. Naval activities may also charge search and review (in the case of commercial requesters) time if records located are determined to be exempt from disclosure. In practice, if the naval activity estimates that search charges are likely to exceed \$25, it